

LANCASTER COUNTY

COUNTY - CITY BUILDING Telephone: (402)441-7410
LINCOLN, NEBRASKA 68508 FAX : (402) 441-6513
BOARD OF COMMISSIONERS

**IT IS THE VENDOR'S RESPONSIBILITY TO CHECK
FOR ADDENDUMS PRIOR TO SUBMITTING PROPOSALS**

REQUEST FOR PROPOSALS (RFP) SPECIFICATION NO. 05-133

Lancaster County intends to enter into a contract and invite you to submit a sealed proposal for:

ANNUAL REQUIREMENTS FOR PODIATRY SERVICES FOR LANCASTER MANOR

MEETING OR EXCEEDING COUNTY SPECIFICATIONS

Sealed Proposals will be received by the Lancaster County on or before **12:00 noon Wednesday, May 25, 2005** in the office of the Purchasing Agent, Suite 200, "K" Street Complex, located at 440 South 8th Street, Lincoln, Nebraska 68508. Only the names of responding proposers will be publicly read in the Bid/Conference Room located on the First Floor of the "K" Street Complex.

Proposers should take caution if U.S. mail or mail delivery services are used for the submission of response. Mailing should be made in sufficient time for response to arrive in the Purchasing Division, prior to the time and date specified above. Late proposals will not be considered.

COMMISSIONERS

DEB SCHORR * LARRY HUDKINS * RAY STEVENS * BERNIE HEIER * BOB WORKMAN
KERRY EAGAN, Chief Administrative Officer

SEALED PROPOSAL SPECIFICATION NO. 05-133

BID OPENING TIME: 12:00 NOON

DATE: Wednesday, May 25, 2005

ADDENDA RECEIPT: The receipt of the addenda to the specification number ____ through ____ is hereby acknowledged. Failure of any bidder to receive any addenda or interpretation shall not relieve the bidder from obligations specified in the bid request. All addenda shall become part of the final contract document.

The undersigned submitter, having full knowledge of the requirements of the County for the above listed project, the Contract Documents and all other terms and conditions of the request, agrees to provide the labor, certificate of insurance, unemployment compensation in strict accordance with the specifications as prepared by the County for the consideration of the amount set forth in the following price schedule:

RFP FOR PODIATRY SERVICES

1. Compensation for podiatry services shall be in compliance with Nebraska Department of Health and Human Services fee schedule: Do you concur? ____ Yes ____ No

INCLUDE WITH YOUR RESPONSE

- A brief background summary of your firm (including; company structure, location of offices and branches, key personnel, experience and qualifications, etc.)
- A summary describing any services provided by your firm (and available to the Lancaster Manor) in addition to those listed in the specification document.
- A list of at least three accounts you currently service with similar needs to the Lancaster Manor (include facility name, address, contract administrator name, telephone number, the term of your agreement and briefly describe the services provided).

NO BONDS REQUIRED

NOTE: RETURN 6 COMPLETE COPIES OF BID OFFER AND SUPPORTING MATERIAL.

MARK OUTSIDE OF PROPOSAL ENVELOPE AS FOLLOWS:

SEALED PROPOSAL FOR SPEC. NO. 05-133

The undersigned signatory of the bidder represents and warrants that he has full and complete authority to submit this offer to Lancaster County of Lincoln, and to enter into a contract if this offer is accepted.

COMPANY NAME

BY (Signature)

STREET ADDRESS or P.O. BOX

(Print Name)

CITY, STATE

ZIP CODE

(Title)

TELEPHONE NO.

(Date)

FAX NO.

**EMPLOYER'S FEDERAL I.D. NO.
OR SOCIAL SECURITY NUMBER**

INSTRUCTIONS TO PROPOSERS

LANCASTER COUNTY, NEBRASKA PURCHASING DIVISION

1. PROPOSAL PROCEDURE

- 1.1 Proposer shall submit six (6) complete sets of the RFP documents and all supporting material. All appropriate blanks shall be completed. Any interlineation, alteration or erasure on the specification document shall be initialed by the proposer. Proposer shall not change the proposal form nor make additional stipulations on the specification document. Any amplified or qualifying information shall be on the Proposer's letterhead and firmly attached to the response/offer document.
- 1.2 Proposed prices shall be submitted on the Proposal Form included in a sealed envelope with the RFP number and/or description clearly marked on the outside of the envelope.
- 1.3 Each RFP must be legibly printed in ink or by typewriter, include full name, business address, and telephone no. of the Proposer; and be signed in ink by the Proposer.
- 1.4 Response by a firm / organization other than a corporation must include the name and address of each member.
- 1.5 A response by a corporation must be signed in the name of such corporation by a duly authorized official thereof.
- 1.6 Any person signing a response for a firm, corporation, or other organization must show evidence of his authority so to bind such firm, corporation, or organization.
- 1.7 Proposals received after the time and date established for receiving offers will be rejected.

2. EQUAL OPPORTUNITY

- 2.1 Each proposer agrees that it shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, disability, national origin, age, or marital status. In the employment of persons, bidder shall take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to race, color, religion, sex, disability, national origin, age, or marital status.

3. DATA PRIVACY

- 3.1 Proposer agrees to abide by all applicable State and Federal laws and regulations concerning the handling and disclosure of private and confidential information concerning individuals and corporations as to inventions, copyrights, patents and patent rights.
- 3.2 The proposer agrees to hold the County harmless from any claims resulting from the proposer's unlawful disclosure or use of private or confidential information.

4. PROPOSER'S REPRESENTATION

- 4.1 Each proposer by signing and submitting an offer, represents that he/she has read and understands the specification documents, and the offer has been made in accordance therewith.
- 4.2 Each offer for services further represents that the proposer is familiar with the local conditions under which the work and has correlated the observations with the requirements of the RFP.

5. INDEPENDENT PRICE DETERMINATION

- 5.1 By signing and submitting this RFP, the proposer certifies that the prices offered have been arrived at independently, without consultation, communication or agreement, for the purpose of restricting competition, with any other proposer competitor; unless otherwise required by law, the prices which have been quoted in this offer have not been knowingly disclosed by the proposer prior to RFP opening directly or indirectly to any other competitor; no attempt has been made, or will be made, by the proposer to induce any person or firm to submit, or not to submit, a response for the purpose of restricting competition.

6. SPECIFICATION CLARIFICATION

- 6.1 Proposers shall promptly notify the Purchasing Agent of any ambiguity, inconsistency or error which they may discover upon examination of specification documents.
- 6.2 Proposers desiring clarification or interpretation of the specification documents shall make a written request which must reach the Purchasing Agent at least seven (7) calendar days prior to date and time for response receipt.
- 6.3 Interpretations, corrections and changes made to the specification documents will be made by written addenda.
- 6.4 Oral interpretations/changes to Specification Documents made in any other manner, will not be binding on the County; proposers shall not rely upon oral interpretations.

7. ADDENDA

- 7.1 Addenda are written instruments issued by the County prior to the date for receipt of offers which modify or interpret the specification document by addition, deletion, clarification or correction.
- 7.2 Addenda will be mailed or delivered to all who are known by the County to have received a complete set of specification documents.

- 7.3 Copies of addenda will be made available for inspection at the office of the Purchasing Agent.
- 7.4 No addendum will be issued later than forty-eight (48) hours prior to the date and time for receipt of offers, except an addendum withdrawing the RFP, or addendum including postponement.
- 7.5 Proposers shall ascertain prior to submitting their offer that they have received all addenda issued, and they shall acknowledge receipt of addenda on the proposal form.

8. EVALUATION AND AWARD

- 8.1 The signed proposal shall be considered an offer on the part of the proposer. Such offer shall be deemed accepted upon issuance by the County of purchase orders, contract award notifications, or other contract documents appropriate to the work.
- 8.2 No offer shall be withdrawn for a period of ninety (90) calendar days after the time and date established for receiving offers, and each proposer agrees in submitting an offer.
- 8.3 In case of a discrepancy between the unit prices and their extensions, the unit prices shall govern.
- 8.4 The RFP process is designed to be a competitive negotiation platform, where price is not required to be the sole determinative factor; also the County has the flexibility to negotiate with a select firm or selected firms to arrive at a mutually agreeable relationship.
- 8.5 A committee will be assigned the task of reviewing the proposals received.
 - 1. The committee may request documentation from Proposer(s) of any information provided in their proposal response, or require the Proposer to clarify or expand qualification statements.
 - 2. The committee may also require a site visit and/or verbal interview with a Proposer or select group of Proposers to clarify and expand upon the proposal response.
- 8.6 The offer will be awarded to the lowest responsive, responsible bidder whose proposal will be most advantageous to the County, and as the County deem will best serve their requirements.
- 8.7 The County reserves the right to accept or reject any or all offers, parts of offers; request rebids; waive irregularities and technicalities in offers; or to award the RFP on a split-order basis, or lump-sum basis; such as shall best serve the requirements and interests of the County.

9. INDEMNIFICATION

- 9.1 The proposer shall indemnify and hold harmless the County, its members, its officers and employees from and against all claims, damages, losses, and expenses, including, but not limited to attorney's fees arising out of or resulting from the performance of the contract, provided

that any such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property other than goods, materials and equipment furnished under this contract) including the loss of use resulting therefrom; is caused in whole or part by any negligent act or omission of the proposer, any subcontractor, or anyone directly or indirectly employed by any one of them or anyone for whose acts made by any of them may be liable, regardless of whether or not it is caused by a party indemnified hereunder.

- 9.2 In any and all claims against the County or any of its members, officers or employees by an employee of the proposer, any subcontractor, anyone directly or indirectly employed by any of them or by anyone for whose acts made by any of them may be liable, the indemnification obligation under paragraph 9.1 shall not be limited in any way by any limitation of the amount or type of damages, compensation or benefits payable by or for the proposer or any subcontractor under worker's or workmen's compensation acts, disability benefit acts or other employee benefit acts.

10. TERMS OF PAYMENT

- 10.1 Unless other specification provisions state otherwise, payment in full will be made by the County within thirty (30) calendar days after all labor has been performed and all equipment or other merchandise has been delivered, and all such labor and equipment and other materials have met all contract specifications.

11. LAWS

- 11.1 The Laws of the State of Nebraska shall govern the rights, obligations, and remedies of the Parties under this proposal and any agreement reached as a result of this process.

SPECIFICATIONS

PODIATRY SERVICES FOR LANCASTER MANOR

GENERAL INFORMATION

1. SCOPE OF SERVICES

- 1.1 The Lancaster County Manor, herein after referred to as the County or Manor, is interested in obtaining proposals from interested Podiatrists (who are licensed and registered in the State of Nebraska), herein after referred to as proposers or contractors, to implement and administer certain podiatry services within their specialty, to adequately meet the needs of the Manor and its residents.
 - 1.1.1 The Lancaster Manor is a 301 bed facility, which provides long term nursing home care to the residents housed in the facility.
 - 1.1.2 The Successful Proposer shall provide services to Lancaster Manor residents within the Podiatrist's normal scope of practice.
 - 1.1.2.1 Providing Podiatry Services as a consultant when ordered by the resident's primary care physician.
 - 1.1.2.2 Documentation shall be provided for recommendations and for future care in the resident's medical record.
 - 1.1.2.3 Podiatrist agrees to follow and abide by the regulations and Code of Ethics for the podiatrist specialty.
 - 1.1.3 The Successful Proposer shall arrange a monthly meeting, at a mutually agreed upon time, with the Director of Nursing to discuss the resident's care.
 - 1.1.4 Podiatry care shall be provided by the contractor to residents at the Manor at least twice a month.
 - 1.1.5 Contractor shall be available for telephone consultation and able to respond to emergency calls within eight (8) hours.
 - 1.1.6 Contractor shall provide, at no additional cost to the Manor, a minimum of one in service per year to Lancaster Manor staff, at a mutually agreed upon time.
 - 1.1.7 Contractor shall fully inform themselves of the Manor's infection control policies and follow all facility infection control practices.

2. TERM OF THE CONTRACT

- 2.1 The contract shall be for one (1) three (3) year period.
 - 2.1.1 The contract shall commence on the date the contract is ratified by the signing of both parties and shall continue for thirty-six (36) consecutive months.
- 2.2 The contract shall be renewable for an additional one (1) three (3) year period by mutual consent of the parties involved.
 - 2.2.1 If renewal of the contract for the additional term is not desirable by either one of the parties, that party shall give written notice to the other of its intent to terminate the contract by not less than ninety (90) days prior to the expiration of the initial agreement period.
 - 2.2.2 Any renewal of the contract will be under the same terms and conditions as the original agreement.

3. INFORMATION

- 3.1 For information regarding this request please contact Kathy A. Smith (402) 441-8309, Assistant Purchasing Agent.
- 3.2 For information regarding the scope of work contact Larry Van Hunnik (402) 441-7101, Lancaster Manor Administrator.

4. RELATIONSHIP BETWEEN THE PROVIDER AND THE COUNTY

- 4.1 It is agreed that the contractor shall not be considered an employee of the County for any purpose, but shall be an independent contractor for all purposes and in all situations.
- 4.2 As an independent contractor, the contractor shall be responsible for all required reporting of income and payments of taxes required by the Federal, State, or Local statutes including, but not limited to: payments required under the Federal Insurance Contributions Act, income tax withholding and periodic payment of estimated taxes, and payments required under the Federal Unemployment Tax Act, and any applicable State and Local sales, use or income taxes.
- 4.3 Each party shall be responsible for its own negligence and the negligence of its employees.

5. LIABILITY INSURANCE

- 5.1 Contractor shall maintain professional liability and malpractice insurance throughout the term (and any subsequent renewal term) of this agreement.
- 5.2 Contractor agrees that the County may examine the contract insurance policies at its request and that compliance with such a request will not be unreasonably withheld or delayed.
- 5.3 Contractor agrees to hold harmless the County and/or its assigns from any liens, incumbrance and/or disputes arising as a result of any business dealings between the contractor, its supplier, vendors and/or any other entity which the contractor engages or does business with.

6. ACCESS TO RECORDS

- 6.1 The County will take all necessary steps to assure complete access by the Contractor to all records necessary for the performance of its duties hereunder.
- 6.2 The Contractor shall retain as completely confidential all information relating to the policies, procedures, and records of the County, consistent with all laws regulating the disclosure of public and private (resident) records.

7. ACCESS TO EQUIPMENT AND FACILITIES

- 7.1 The Manor agrees to permit the Podiatrist to use the space, utilities and other facilities without charge for the purposes of providing care to its residents only.
- 7.2 The Successful Podiatrist shall provide their own equipment and supplies necessary to administer the services as described herein.

8. COMPENSATION FOR SERVICES

- 8.1 It is understood that collection of fees for medications and services distributed/administered to the Lancaster Manor's residents is to be conducted entirely between the contractor and the Nebraska Health and Human Services Department.

8.1.1 The collection of any private billings to residents who are obligated to pay certain exempt or additional medication/service expenses shall be solely between the contractor and the resident.

8.1.1.1 The Manor will assume no liability for any resident fees unpaid for any reason whatsoever.

8.2 *Under no circumstances shall the provider submit charges that exceed the usual and customary charges.*

9. CONTRACT PROCEDURES AND PROVISIONS

9.1 The enclosed contract, proposal and addenda provided to the County by the contractor shall comprise the entire contract of the parties.

9.1.1 No change in, addition to, or waiver of any provision of this contract shall be binding unless it is in writing, signed by both parties, and added to this contract as an amendment.

9.2 All other expenses incurred in the implementation and operation of podiatry services not mentioned herein will be borne by the contractor.

9.3 Any and all contractual agreement(s) generated as an outcome of this RFP process shall not be assignable by the Successful Contractor without written permission of the Lancaster County Board of Commissioners.

10. TERMINATION

10.1 Any agreement generated as a result of this process may be terminated at any time by either party in consideration of 90 days written notice.

10.1.1 Such notice shall be forwarded to the most current address of the recipient and shall be sent by registered mail.

10.1.2 It is further agreed that prior to the sending of a "Notice of Intent to Terminate", the party desirous of such termination will discuss the reasons for such action with the other party and will strive, in good faith and without prejudice, to resolve the circumstances necessitating the action to terminate the contract.

11. CRITERIA FOR PODIATRY SERVICES

11.1 Must be an established Podiatrist in business at least for two (2) years with experience in administering service and consulting for similar nursing home or other facilities.

11.2 Display competence in handling a high volume, 301 bed nursing home podiatry service with little or no complication for services provided.

S A M P L E

CONTRACT DOCUMENTS

LANCASTER COUNTY

N E B R A S K A

F O R

ANNUAL PODIATRY SERVICES PROVIDER
FOR LANCASTER MANOR

SPECIFICATION #05-133

CONTRACTOR: _____

LANCASTER COUNTY, NEBRASKA

CONTRACT AGREEMENT

THIS CONTRACT, made and entered into this ____day of ____, 2005, by and between _____ hereinafter called contractor, and the Lancaster County, Nebraska, hereinafter called the County.

WITNESS, that:

WHEREAS, the County has caused to be prepared, in accordance with law, Specifications, Plans, and other Contract Documents for the Work herein described, and has approved and adopted said documents and has caused to be published an advertisement for and in connection with said Work, to-wit:

Podiatry Services and related consulting services, supplies, equipment, and delivery thereof.

and,

WHEREAS, the Contractor, in response to such advertisement, has submitted to the County, in the manner and at the time specified, a sealed Proposal in accordance with the terms of said advertisement; and,

WHEREAS, the County, in the manner prescribed by law has publicly opened, read aloud, examined, and canvassed the Proposals submitted in response to such advertisement, and as a result of such canvass has determined and declared the Contractor to be the most responsible, responsive Proposer for the said Work for the sum or sums named in the Contractor's Proposal, a copy thereof being attached to and made a part of this Contract;

NOW, THEREFORE, in consideration of the sums to be paid to the Contractor and the agreements herein contained, the Contractor and the County have agreed and hereby agree as follows:

The Contractor agrees to (a) furnish all tools, equipment, supplies, superintendence, transportation, and other accessories, services, and facilities; (b) furnish all materials, supplies, and equipment specified to be incorporated into and form a permanent part of the complete work; (c) provide and perform all necessary labor in a substantial and workmanlike manner and in accordance with the provisions of the Contract Documents; and (d) execute all Work included in and covered by the County's award of this Contract to the Contractor, such award being based on the acceptance by the County of the Contractor's Proposal, or part thereof, as follows:

EQUAL EMPLOYMENT OPPORTUNITY: In connection with the carrying out of this project, the contractor shall not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, disability, age or marital status. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, religion, color, sex or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other compensation; and selection for training, including apprenticeship.

The County agrees to pay to the Contractor for the performance of the Work embraced in this Contract, the Contractor agrees to accept as full compensation therefor, the following sums and prices for all Work covered by and included in the Contract award and designated above, payment thereof to be made in the manner provided by the County:

Request for Proposal #05-133, Annual Requirements for Podiatry Services for Lancaster Manor

The Work included in this Contract shall for a three (3) year term beginning _____, 2005 through _____, 2008.

The County has the option to renew for an additional three (3) year period with mutual consent beginning: _____, 2008 through _____, 2011.

The Contract Documents comprise the Contract, and consist of the following:

1. The Specification Documents **(Attachment #1)**
2. The Accepted Proposal **(Attachment #2)**
3. The Contract Agreements
4. The Insurance Requirements **(Attachment #3)**
5. The HIPPA Business Associates Agreement **(Attachment #4)**

These Contract Agreements, together with the other Contract Documents herein above mentioned, form this Contract, and the are as fully a part of the Contract as if hereto attached or herein repeated.

The Contractor and the County hereby agree that all the terms and conditions of this Contract shall by these presents be binding upon themselves, and their heirs, administrators, executors, legal and personal representatives, successors, and assigns.

IN WITNESS WHEREOF, the contractor and the County do hereby execute this contract.

EXECUTION BY LANCASTER COUNTY, NEBRASKA

CONTRACT APPROVED AS TO FORM:

COUNTY OF LANCASTER, NEBRASKA

Lancaster Deputy County Attorney

Chairperson, Board of Commissioners

EXECUTION BY CONTRACTOR

IF A CORPORATION:

Name of Corporation

ATTEST:

Address

(SEAL)
Secretary

By: _____
Duly Authorized Official

Legal Title of Official

ATTACHMENT #3

INSURANCE CLAUSE FOR ALL COUNTY CONTRACTS

The Contractor shall indemnify and hold harmless, to the fullest extent allowed by law, Lancaster County, Nebraska, its members, its officers and employees from and against all losses, claims, damages and expenses, including court-ordered attorney's fees, arising out of or resulting from the performance of the contract that results in bodily injury, sickness, disease, death or injury to or destruction of tangible property, including the loss of use resulting therefrom and is caused in whole or in part by the Contractor, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable.

Contractor shall not commence work under this contract until he has obtained all insurance required under this Section and such insurance has been approved by LANCASTER COUNTY, nor shall the Contractor allow any subcontractor to commence work on his subcontract until all similar insurance required of the subcontractor has been so obtained and approved.

- A. Workers' Compensation Insurance and Employer's Liability Insurance: The Contractor shall take out and maintain during the life of this contract the applicable statutory Worker's Compensation Insurance, and in the case of any work sublet, the Contractor shall require the subcontractor similarly to provide statutory Worker's Compensation Insurance for the latter's employees. Coverage shall be provided by an insurance company authorized to write such insurance in all states where the Contractor will have employees located in the performance of this contract, and the Contractor shall require each of his subcontractors similarly to maintain Employer's Liability Insurance similarly to the Contractor.

Workers' Compensation - Required limits:

Coverage A - Coverage will include Statutory requirements

Coverage B - Employers Liability

\$100,000 Each Person

\$100,000 Each Person by Disease

\$500,000 Policy Limit - Disease

- B. General Liability Insurance

1. The Contractor shall maintain during the life of this contract, Commercial General Liability Insurance, naming and protecting him and Lancaster County against claims for damages resulting from (a) bodily injury, including wrongful death, and (b) property damage which may arise from operations under this contract whether such operations be by himself or by any subcontractor or anyone directly or indirectly employed by either of them. The insurance requirements are:

Commercial General Liability (form CG0001 or equivalent) with limits of:

\$1,000,000 Each Occurrence

\$1,000,000 Personal Injury

\$2,000,000 Products/Completed Operations

\$2,000,000 General Aggregate

and:

1. Coverage shall include Contractual Liability coverage insuring the contractual exposure as addressed in this contract.
2. There shall be no exclusion or limitation for the Explosion (X), Collapse ©) and Underground (U) hazards.
3. Coverage shall also include Products/Completed Operations.
4. **Lancaster County shall be named as Additional insured (CG2010 or equivalent).**
5. The Commercial General Liability coverage shall be endorsed with the Designated Construction Project(s) General Aggregate Limit endorsement (CG 25 03 or equivalent).

- C. Automobile Liability Insurance: The Contractor shall take out and maintain during the life of the contract such Automobile Liability Insurance as shall protect him against claims for damages resulting from (a) bodily injury, including wrongful death, and (b) property damage which may arise from the operations of any owned, hired, or now-owned automobiles used by or for him in any capacity in connection with the carrying out of this contract. The minimum acceptable limits of liability to be provided by such Automobile Liability Insurance shall be as follows:

| | |
|-----------------------------------|---------------------------------|
| Bodily Injury and Property Damage | 1,000,000 Combined Single Limit |
|-----------------------------------|---------------------------------|

- D. Minimum Scope of Insurance: All Liability Insurance policies shall be written on an "Occurrence" basis only. All insurance coverage are to be placed with insurers authorized to do business in the State of Nebraska and must be placed with an insurer that has A.M. Best's Rating of no less than A:VII unless specific approval has been granted by LANCASTER COUNTY.
- E. Certificate of Insurance: All Certificates of Insurance shall be filed with LANCASTER COUNTY on the standard ACCORD CERTIFICATE OF INSURANCE form showing the specific limits of insurance, coverage modifications and endorsements required by the preceding Sections A, B, C, D and showing LANCASTER COUNTY is an additional insured where required. Such certificate shall specifically state that insurance policies are to be endorsed to require the insurer to provide LANCASTER COUNTY thirty days, notice of cancellation non-renewal or any material reduction of insurance coverage.

The original certificate shall be provided to Lancaster County as designated and a copy to: Office of Risk Management, Lancaster County (555 So. 9th Street, Lincoln, NE 68508)

ATTACHMENT #4
ADDENDUM TO CONTRACT#**
FOR: _

HIPAA Business Associate Agreement

1. Definitions. Terms used but not otherwise defined herein shall have the meanings set forth in the HIPAA Privacy Rule, 45 C.F.R. Parts 160 and 164.

II. Purpose. _____, an agency of Lancaster County, is a Covered Entity under HIPAA and Contractor is its Business Associate with respect to the Business Associate Functions it provides under the Agreement. Business Associate will have access to PHI in order to perform its functions. HIPAA requires Covered Entity to obtain satisfactory written contractual assurances from its business associates. The purpose of this Agreement is to obtain satisfactory written contractual assurances from Business Associate that Business Associate will appropriately safeguard such PHI in accordance with §§502(e)(1) and 504(e)(1) of the Regulations.

III. Permitted Uses and Disclosures by Business Associate. Business Associate shall only use and disclose PHI for the following purposes:

- a. To perform Business Associate Functions.
- b. As needed for the proper management and administration of Business Associate and to carry out the legal responsibilities of Business Associate.

IV. Special Conditions on Disclosure for Business Associate's Purposes. Before Business Associate may disclose PHI to another party for a reason described in subparagraph III(b), one of the following two conditions must be met either:

- a. The disclosure must be required by law; or
- b. Business Associate must obtain reasonable assurances from the person to whom the PHI is disclosed that such person will safeguard the PHI and further use and disclose it only as required by law or for the purpose for which Business Associate disclosed it such person; and such person must agree in writing to notify Business Associate of any instances of which it is aware in which the confidentiality of PHI has been breached.

V. Obligations and Assurances of Business Associate. As an express condition of performing Business Associate functions, Business Associate agrees to:

- a. Use and/or disclose PHI only as permitted or required by this Agreement or as required by law.
- b. Use appropriate safeguards to prevent use or disclosure of the PHI other than as provided for in this Agreement.
- c. Report to Covered Entity, within a reasonable time after discovery, any use or disclosure of the PHI not provided for by this Agreement of which it becomes aware, together with any remedial or mitigating action taken or proposed to be taken with respect thereto. Business Associate shall cooperate with Covered Entity as requested by Covered Entity in mitigating any harmful effects of such unauthorized disclosure.
- d. Require that any agent that any agent, including a subcontractor, to whom it provides PHI received from, or created or received by Business Associate on behalf of Covered Entity agrees to the same restrictions and conditions that apply through this Agreement to Business Associate with respect to such information.
- e. Provide access, at the request of Covered Entity, within a reasonable time after request, to PHI to Covered Entity or, as directed by Covered Entity, to an individual in order to meet the requirements of §164.524 of the Regulations.
- f. Notify Covered Entity within three (3) business days of a request by an individual to amend PHI maintained by Business Associate, direct the requesting individual to the Covered Entity in the handling of such request, and incorporate any amendment accepted by the Covered Entity in accordance with §164.526 of the Regulations. Business Associate is not authorized to independently agree to an amendment of PHI.

- g. Document disclosures of PHI and information related to such disclosures as would be required for the Covered Entity to respond to a request by an individual for an accounting of disclosures of PHI in accordance with §164.528 of the Regulations.
- h. Notify Covered Entity within three (3) business days of any request by an individual for an accounting of disclosures, direct the requesting individual to the Covered Entity in the handling of such request, and provide Covered Entity within ten (10) days thereafter with all information in its possession or in the possession of its agents, and contractors, which is needed to permit Covered Entity to respond to the request for accounting in accordance with §164.528 of the Regulations. Business Associate agrees to retain necessary records from which to respond to the requests for an accounting.
- i. Make internal practices, books and records, including policies and procedures and PHI, relating to the use and disclosure of PHI received from, or created or received by Business Associate on behalf of Covered Entity available to the Secretary, within a reasonable time after request, or designated by the Secretary, for purposes of the Secretary determining Covered Entity's compliance with the Privacy Rule.

VI. Responsibilities of the Covered Entity. Covered Entity agrees to:

- a. Notify Business Associate of any limitation(s) in its notice of privacy practices of Covered Entity in accordance with §164.520, to the extent that such limitation may affect Business Associate's use or disclosure of PHI.
- b. Notify Business Associate of any changes in, or revocation of, permission by individual to use or disclose PHI to the extent that such changes may affect Business Associate's use or disclosure of PHI
- c. Notify Business Associate of any restriction to the use or disclosure of PHI that Covered Entity has agreed to in accordance with §164.522, to the extent that such restriction may affect Business Associate's use or disclosure of PHI.

VII. Term and Termination.

- a. *Term.* This Agreement shall be effective on the Effective Date and shall continue in effect until all obligations of the parties have been met, including return or destruction of all PHI in Business Associate's possession (or in the possession of Business Associate's agents and/or contractors), unless sooner terminated as provided herein. It is expressly agreed that the terms and conditions of this Agreement designed to safeguard PHI shall survive expiration or other termination of the Services Agreement, and shall continue in full force and effect until Business Associate has performed all obligations under this Agreement.
- b. *Termination by Covered Entity.* Upon Covered Entity's knowledge of a material breach by Business Associate, Covered Entity may immediately terminate the Service Agreement. Alternatively, Covered Entity may choose to provide Business Associate with written notice of the existence of an alleged material breach, and afford Business Associate an opportunity to cure the alleged material breach upon mutually agreeable terms.
- c. *Effect of Termination.*
 - (1) Except as provided in paragraph (2) of this section, upon termination of this Agreement, for any reason, Business Associate shall return or destroy all PHI received from Covered Entity, or created or received by Business Associate on behalf of Covered Entity. This provision shall apply to PHI that is in the possession of subcontractors or agents of Business Associate. Business Associate shall retain no copies of the PHI.
 - (2) In the event that Business Associate determines that returning or destroying the PHI is infeasible, Business Associate shall provide to Covered Entity notification of the conditions that make return or destruction unfeasible. Upon written notice to Covered Entity that return or destruction of PHI is not feasible, Business Associate shall extend the protections of this Agreement to such PHI and limit further uses and disclosures of such PHI to those purposes that make the return or destruction unfeasible, for so long as Business Associate maintains such PHI.

VIII. Miscellaneous

- a. *Amendment.* The parties agree to take such action as is necessary to amend this Agreement from time to time as it necessary for Covered Entity to comply with the requirements of the Privacy Rule and the Health Insurance Portability and Accountability Act of 1996.
- b. *Survival.* The respective rights and obligations of Business Associate under Section VI(c) of this Agreement shall survive the termination of this Agreement.
- c. *Interpretation.* Any ambiguity in this Agreement shall be resolved to permit Covered Entity to comply with the HIPAA Regulations.

The Parties to the Agreement do hereby agree that all the terms and conditions of this Addendum to the Agreement shall by these presents be binding upon themselves, and their heir(s), administrators, executors, legal and personal representatives, successors, and assigns.

IN WITNESS WHEREOF, the Agreement Parties do hereby execute this Addendum.

EXECUTED this ____ day of _____, 2005.

Lancaster County Board of Commissioners
555 So 10th St., Lincoln, NE 68508

BY: _____
Chairperson

EXECUTED this ____ day of _____, 2005.

Contractor Name
Address
City State Zip

BY: _____

PRINTED: _____